

**SUPREME COURT MINUTES  
WEDNESDAY, SEPTEMBER 3, 1997  
SAN FRANCISCO, CALIFORNIA**

S062379      People, Respondent  
4th Dist.          v.  
E018270      Terry Birkett, Appellant  
Div. 2          Petition for review GRANTED.

George, C.J.  
Kennard, J.  
Baxter, J.  
Chin, J.  
Brown, J.

S063167      Sierra Creason et al., Appellants  
4th Dist.          v.  
G015879      State of California, Respondent  
Div. 3          Respondent's petition for review GRANTED.

George, C.J.  
Kennard, J.  
Baxter, J.  
Werdegar, J.  
Chin, J.  
Brown, J.

2nd Dist. Federal Insurance Company, Petitioner  
B112571 v.  
Div. 6 Ventura County Superior Court, Respondent  
S062497 Petition for review GRANTED.

The matter is transferred to the Court of Appeal, Second Appellate District, Division Six, with directions to vacate its order denying mandate and to issue an alternative writ to be heard before that court when the proceeding is ordered on calendar.

George, C.J.  
Kennard, J.  
Baxter, J.  
Werdegar, J.  
Chin, J.  
Brown, J.

S010334 People, Respondent  
v.  
James Robert Scott, Appellant  
Petition for rehearing DENIED.

S050148 Wm. R. Clarke Corporation, Respondent  
2nd Dist. v.  
B077931 Safeco Insurance Company of America, Appellant  
Div. 1 And Companion Case  
Petition for rehearing DENIED.  
Mosk, J., Baxter, J., Chin, J., are of the opinion the petition should be granted.

S012943 People, Respondent  
v.  
David Allen Rundle, Appellant  
Good cause not appearing, the application of appointed counsel James F. Johnson for an extension of time to file the appellant's opening brief is denied. Johnson has been in default since July 18, 1997, for failure to timely file an extension of time request with a

declaration detailing case progress to date on the appellant's opening brief.

In view of the statements of Mr. Johnson contained in the motion for an extension of time to file the opening brief, filed on August 14, 1997, declaring that he "has not been able to do any work on the present case since March 17, 1997," that "[n]o facts statement has been written and no issues have been researched or briefed," and that he intends to file "a [m]otion to [w]ithdraw as counsel" from this case, the order appointing James F. Johnson as counsel of record for appellant David Allen Rundle, filed on October 21, 1992, is hereby vacated.

On the court's own motion, the Office of the State Public Defender is hereby appointed to represent appellant David Allen Rundle in his automatic appeal now pending in this court, including any related habeas corpus proceedings.

Mr. Johnson is ordered to transmit forthwith all case files, transcripts and any other case-related materials to Mr. Emry Allen, Acting Chief Attorney, Office of the State Public Defender, 801 K Street, Suite 1100, Sacramento, CA 95814.

The Clerk/Administrator of the Supreme Court is directed to notify the State Bar of this action by forwarding to the State Bar a copy of this order removing counsel for his failure to perform work on the appellant's opening brief with reasonable diligence since at least March 17, 1997, and for his failure to show good cause for such lack of reasonable diligence. (See "Payment Guidelines for Appointed Counsel Representing Indigent Criminal Appellants in the California Supreme Court," Guideline V(A), adopted effective July 30, 1997 ["Nonperformance of counsel"].)

Kennard, J., joins the court in denying counsel's motion for an extension of time. She does not, however, join the court in the other provisions of the court's order; she would have deferred action on this matter until receipt and review of the "Motion to Withdraw" that counsel indicated he would file with the court by September 5, 1997.

S056590      In re Teofilo Medina, Jr.  
                  on  
                  Habeas Corpus

The petition for writ of habeas corpus filed on October 8, 1996, is denied.

Although the petition is substantially delayed, the court finds

good cause for the delay because petitioner was not actively represented by counsel during much of the time in question by reason of severe economic and staffing problems in the Office of the State Public Defender and the resignation of the two staff attorneys who had been assigned to petitioner's case.

The following claims are denied on the ground that they were raised and rejected on appeal, and they come within none of the exceptions that would permit their reconsideration on habeas corpus: Claims III A 5 c, III A 12, IV, V (to the extent it duplicates arguments raised on appeal), XIII, and XX (to the extent it duplicates arguments raised on appeal). (*In re Waltreus* (1965) 62 Cal.2d 218, 225; see *In re Harris* (1993) 5 Cal.4th 813, 829-841 [exceptions to *Waltreus* and related bars].)

All claims of cumulative error are also subject to the procedural bar applying to the individual claims.

Except for claim XXIX (challenge to timeliness rules), which is denied as moot, all claims are also denied on the merits. (See *Harris v. Reed* (1989) 489 U.S. 255, 264, fn. 10.)

Mosk, J., and Brown, J., would deny the petition solely on the merits.

S057549     In re Sammy Marshall  
                  on  
                  Habeas Corpus

Because of the death of petitioner, the petition for writ of habeas corpus is DISMISSED as moot.

S058051     In re Teofilo Medina, Jr.  
                  on  
                  Habeas Corpus

The petition for writ of habeas corpus filed on May 1, 1997, is denied.

Except to the extent they rely on arguments of appellate counsel's incompetence, claims VII, VIII, IX, X and XI, and each of their various subparts, are barred as untimely. They are substantially delayed because they are based on information that was long known, or should have been known, to petitioner and his counsel. No good cause has been offered to justify or explain the delay, and the claims

come within none of the four exceptions to the bar of untimeliness. (*In re Clark* (1993) 5 Cal.4th 750, 767-787 [delay rules], 797-798 [exceptions to the untimeliness bar].)

Except to the extent petitioner claims trial and appellate counsel were ineffective, claims VII, IX, X and XI, and their subparts, are also denied on the ground that they could have been, but were not, raised on appeal, and they come within none of the four exceptions that would permit their consideration on habeas corpus. (*In re Dixon* (1953) 41 Cal.2d 756, 759; *In re Harris* (1993) 5 Cal.4th 813, 825, fn. 3, & pp. 829-841; cf. *People v. Pope* (1979) 23 Cal.3d 412, 426.)

Claim IX (A) is also denied on the ground it involves a search and seizure issue collateral to the basic question of guilt or innocence and is not cognizable on habeas corpus. (*In re Lessard* (1965) 62 Cal.2d 497, 503-504; *In re Harris, supra*, 5 Cal.4th at p. 830.)

Claim IX (C)(3) is also denied on the ground that it was raised and rejected on appeal and comes within none of the exceptions that would permit its reconsideration. (*In re Waltreus* (1965) 62 Cal.2d 218, 225; *In re Harris, supra*, 5 Cal.4th at pp. 829-841.)

Except to the extent petitioner claims trial counsel was ineffective, claim X is also denied because of petitioner's failure to object or otherwise raise the issue at trial. (*People v. Tuilaepa* (1992) 4 Cal.4th 569, 583; *People v. Price* (1991) 1 Cal.4th 324, 414.)

All claims of cumulative error are subject to the same procedural bars that apply to the individual claims.

Claims VIII, XII, XIII and XIV, and their subparts, are also denied on the merits. (See *Harris v. Reed* (1989) 489 U.S. 255, 264, fn. 10.) To the extent they rely on assertions of trial or appellate counsel's incompetence, claims VII, IX, X, and XI, and their subparts, likewise are denied on the merits. (*Ibid.*)

Mosk, J., and Brown, J., would deny the petition solely on the merits.

S059375      In re Richard Farley  
   on  
   Habeas Corpus

Petition for writ of habeas corpus DENIED.

S061678      People, Respondent

v.

Russell Donald Benson, Appellant

The court granted review in this matter on July 23, 1997, and deferred further action, including briefing, pending consideration and disposition of a related issue in *People v. Fuhrman*, S055920, or further order of the court. The court has now decided to make this the lead case on the issue expressly reserved in *People v. Fuhrman*, S055920, filed August 28, 1997: Whether a prior serious or violent felony conviction for which sentence was stayed under Penal Code section 654 may be counted as a “strike” for purposes of calculating a defendant’s sentence under the Three Strikes Law.

Appellant is directed to serve and file a Brief on the Merits limited to this issue on or before October 2, 1997. Additional briefing is to be served and filed in a timely fashion. (See Cal. Rules of Court, rule 29.3(a).)

In deciding this issue, the court will consider all amicus curiae briefs and reply briefs thereto filed in *People v. Fuhrman*, S055920, that address this issue. Accordingly, those briefs need not be refiled in this case.

Russell S. Babcock is appointed to represent appellant in this proceeding.

1st Dist.      People, Respondent

A073225      v.

Div. 2      Delbert Keith Jones, Appellant

S063094      Appellant’s petition for review DENIED.

1st Dist.      People, Respondent

A073987      v.

Div. 2      Zinata Jones, Appellant

S063249      Appellant’s petition for review DENIED.

1st Dist.      People, Respondent

A074194      v.

Div. 5      Andre Matthews, Appellant

S063067      Appellant’s petition for review DENIED.

1st Dist. People, Respondent  
A074241 v.  
Div. 1 Ruben Robert Heredia, Appellant  
S063238 Appellant's petition for review DENIED without prejudice to  
filing a petition for writ of habeas corpus in the sentencing court.  
(*People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 530,  
fn. 13.)

1st Dist. In re Noah Andrew D., a Person Coming  
A074771 Under the Juvenile Court Law  
Div. 1 -----  
S063196 People, Respondent  
v.  
Noah Andrew D., Appellant  
Appellant's petition for review DENIED.

1st Dist. Irven M. McMillan, Appellant  
A074952 v.  
Div. 3 California State Personnel Board et al., Respondents  
S063208 Petition for review DENIED.

1st Dist. People, Respondent  
A075439 v.  
Div. 2 Robert A. Lund, Appellant  
S063106 Appellant's petition for review DENIED.

1st Dist. People, Respondent  
A076081 v.  
Div. 4 William Andrew Tuttle III, Appellant  
S063078 Appellant's petition for review DENIED.

1st Dist. California Pacific Medical Center et al., Petitioners  
A077839 v.  
Div. 3 Workers' Compensation Appeals Board et al., Respondents  
S062771 Petition for review DENIED.

1st Dist. In re Timothy J. Osborne  
A078905 on  
Div. 3 Habeas Corpus  
S063170 Petition for review DENIED.

1st Dist. A079098 Div. 3 S063207	In re F. Bennett on Habeas Corpus Petition for review DENIED.
2nd Dist. B093340 Div. 2 S063163	Steve Y. Kim et al., Respondents v. Gil Kwon et al., Appellants Petition for review DENIED.
2nd Dist. B095460 Div. 4 S063292	People, Respondent v. George Gordon, Jr., Appellant Appellant's petition for review DENIED without prejudice to filing a petition for writ of habeas corpus in the sentencing court. ( <i>People v. Superior Court (Romero)</i> (1996) 13 Cal.4th 497, 530, fn. 13.)
2nd Dist. B097997 Div. 2 S062962	Alameda Business Centre, Appellant v. Robert L. Duntley et al., Appellants Appellant's petition for review DENIED.
2nd Dist. B098146 Div. 2 S063139	Russell W. Engstrom, Appellant v. Frank McCartney Engstrom, Respondent Appellant's petition for review DENIED.
2nd Dist. B099884 Div. 4 S063187	Sung Chin Chang, Appellant v. Bank of America N.T. & S.A., etc., Respondent Appellant's petition for review DENIED. Baxter, J., and Chin, J., did not participate.
2nd Dist. B099988 Div. 1 S062672	People, Respondent v. Erica Dawn Olson et al., Appellants Appellants' petitions for review DENIED.



2nd Dist. People, Respondent  
B100484 v.  
Div. 7 Robert Arzola, Appellant  
S063101 Appellant's petition for review DENIED.

2nd Dist. People, Respondent  
B100674 v.  
Div. 1 Wenceslao Acosta, Appellant  
S062765 Respondent's petition for review DENIED.  
Kennard, J., is of the opinion the petition should be granted.

2nd Dist. People, Respondent  
B101784 v.  
Div. 5 James Washington, Appellant  
S063203 Appellant's petition for review DENIED.

2nd Dist. People, Respondent  
B101905 v.  
Div. 1 Dlyric Lamien Rhoden, Appellant  
S063219 Appellant's petition for review DENIED.

2nd Dist. People, Respondent  
B101949 v.  
Div. 3 Lawrence Louis Hankins, Appellant  
S063288 Appellant's petition for review DENIED.

2nd Dist. David S. Kim, Appellant  
B101972 v.  
Div. 5 California Korea Bank et al., Respondents  
S063215 Respondents' petition for review DENIED.

2nd Dist. People, Respondent  
B102008 v.  
Div. 1 Askia Ashanti, Appellant  
S063179 Appellant's petition for review DENIED without prejudice to  
filing a petition for writ of habeas corpus in the sentencing court.  
(*People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 530,  
fn. 13.)

2nd Dist. People, Respondent  
B102267 v.  
Div. 2 Kenneth Ford, Appellant  
S063216 Appellant's petition for review DENIED.

2nd Dist. Alvin Aggen et al., Appellants  
B102638 v.  
Div. 6 City of Buenaventura, Respondent  
S063192 Petition for review DENIED.

2nd Dist. People, Respondent  
B103534 v.  
Div. 5 Mark Liebsack, Appellant  
S063135 Appellant's petition for review DENIED.

2nd Dist. People, Respondent  
B103610 v.  
Div. 4 Minor Francisco Pineda, Appellant  
S063183 Appellant's petition for review DENIED.

2nd Dist. People, Respondent  
B103630 v.  
Div. 1 Ernest Hernandez, Appellant  
S063226 Appellant's petition for review DENIED.

2nd Dist. People, Respondent  
B103685 v.  
Div. 1 Rodney Louis Gaines, Appellant  
S062349 Appellant's petition for review DENIED.

2nd Dist. People, Respondent  
B103945 v.  
Div. 1 Wassell Grissom, Appellant  
S063255 Appellant's petition for review DENIED.

2nd Dist. People, Respondent  
B104078 v.  
Div. 5 Oscar Hernandez, Appellant  
S063250 Appellant's petition for review DENIED.

2nd Dist. B104111 Div. 6 S063206	Colette Fischer, Appellant v. City of Santa Barbara et al., Respondents Appellant's petition for review DENIED.
2nd Dist. B104177 Div. 1 S063222	People, Respondent v. Dayman Lavall Palmer, Appellant Appellant's petition for review DENIED.
2nd Dist. B104249 Div. 3 S063127	People, Respondent v. Leonardo Reyes Rodriguez, Appellant Appellant's petition for review DENIED.
2nd Dist. B104323 Div. 6 S063153	In re the Marriage of Alethea Lailan Fell & Robert M. Fell ----- Alethea Lailan Fell, Respondent v. Robert M. Fell, Appellant Petition for review DENIED.
2nd Dist. F104373 Div. 3 S063237	People, Respondent v. Bay Edward McNeil, Appellant Appellant's petition for review DENIED.
2nd Dist. B104806 Div. 1 S063124	People, Respondent v. Mandy Leon Allen, Appellant Appellant's petition for review DENIED.
2nd Dist. B104812 Div. 1 S063136	People, Respondent v. Oscar Hernandez, Appellant Appellant's petition for review DENIED.
2nd Dist. B104815 Div. 2 S062974	Dana Anderson, Appellant v. Lucky Stores, Inc., Respondent Appellant's petition for review DENIED.

2nd Dist. Rebecca James, Petitioner  
B106825 v.  
Div. 6 Workers' Compensation Appeals Board, Respondent  
S063077 Paso Robles Convalescent Hospital et al., Respondents  
Petition for review DENIED.

2nd Dist. Garabet Mardirossian, Petitioner  
B107356 v.  
Div. 2 Los Angeles County Superior Court, Respondent  
S062614 Farmer Insurance Group et al., Real Parties in Interest  
Real Parties Interest's petition for review DENIED.  
The Reporter of Decisions is directed not to publish in the  
Official Appellate Reports the opinion in the above-entitled appeal,  
filed May 29, 1997, which appears at 55 Cal.App.4th 1464. (Cal.  
Const., art. VI, section 14; rule 976, Cal. Rules of Court.)

2nd Dist. Viad Corporation, Petitioner  
B108343 v.  
Div. 4 Los Angeles County Superior Court, Respondent  
S062707 Jake Allison et al., Real Parties in Interest  
Petition for review DENIED.  
Kennard, J., is of the opinion the petition should be granted.  
The requests for an order directing depublication of the opinion  
are DENIED.  
Baxter, J., did not participate.

2nd Dist. Jose Luis Arcos, Petitioner  
B111096 v.  
Div. 5 Workers' Compensation Appeals Board, Respondent  
S062766 Metro Building Maintenance, Respondent  
Petition for review DENIED.

2nd Dist. Harold Summers, Petitioner  
B111301 v.  
Div. 4 Workers' Compensation Appeals Board, Respondent  
S063176 Hughes Aircraft, Respondent  
Petition for review DENIED.

2nd Dist.      Javier Marquez, Petitioner  
B112841          v.  
Div. 7          Los Angeles County Superior Court, Respondent  
S062486      People, Real Party in Interest  
                 Respondent's petition for review DENIED.

2nd Dist.      Masayoshi Iwabuchi, Petitioner  
B112902          v.  
Div. 3          Los Angeles County Superior Court, Respondent  
S062622      People, Real Party in Interest  
                 Petition for review DENIED.

2nd Dist.      In re John Henry Dominquez  
B113072          on  
Div. 4          Habeas Corpus  
S063160      Petition for review DENIED.

2nd Dist.      Jeffrey Taylor, Petitioner  
B113177          v.  
Div. 1          Los Angeles County Superior Court, Respondent  
S063070      People, Real Party in Interest  
                 Petition for review DENIED.

2nd Dist.      Nathaniel Friedman, Petitioner  
B113645          v.  
Div. 7          Los Angeles County Superior Court, Respondent  
S062919      Mulikin Medical Center et al., Real Parties in Interest  
                 Petition for review DENIED.

2nd Dist.      Patricia Rosedale Morgan, Petitioner  
B113781          v.  
Div. 4          Los Angeles County Superior Court, Respondent  
S063128      Estate of Harry Rosedale, Real Party in Interest  
                 Petition for review DENIED.

2nd Dist.      In re Yahya Lavi  
B113927          on  
Div. 5          Habeas Corpus  
S063186      Petition for review DENIED on the merits.

3rd Dist. People, Respondent  
C020732 v.  
S062437 Lee Corbett Erwin et al., Appellants  
Appellants' petitions for review DENIED.

3rd Dist. Shell Oil Company, Petitioner  
C021879 v.  
S062956 Sacramento County Superior Court, Respondent  
Kevin Bailey, etc. et al., Real Parties in Interest  
Petition for review DENIED.  
The requests for an order directing publication of the opinion are DENIED.

3rd Dist. California Association of Health Facilities, Appellant  
C021880 v.  
S056559 Department of Health Services, Appellant  
Request to modify opinion DENIED.

3rd Dist. People, Respondent  
C022823 v.  
S063076 James M. Kills-in-Water, Appellant  
Appellant's petition for review DENIED.

3rd Dist. People, Respondent  
C023026 v.  
S063131 Timothy Martin, Appellant  
Appellant's petition for review DENIED without prejudice to  
filing a petition for writ of habeas corpus in the sentencing court.  
(*People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 530,  
fn. 13.)

3rd Dist. People, Respondent  
C023295 v.  
S063152 Charles Henry Garland, Appellant  
Appellant's petition for review DENIED.

3rd Dist. People, Respondent  
C023663 v.  
S063264 Frederick Myron Carter, Appellant  
Appellant's petition for review DENIED.

3rd Dist. Brad C. Westlye, Appellant  
C023672 v.  
S063142 Look Sports Incorporated et al., Respondents  
Appellant's petition for review DENIED.

3rd Dist. People, Respondent  
C023793 v.  
S062566 William Thomas Flesuras, Appellant  
Appellant's petition for review DENIED.

3rd Dist. People, Respondent  
C023811 v.  
S062556 Robert Lee Fitch, Appellant  
Appellant's petition for review DENIED.  
Mosk, J., and Kennard, J., are of the opinion the petition should  
be granted.

3rd Dist. People, Respondent  
C024223 v.  
S063415 David Alan Campaigne, Appellant  
Appellant's petition for review DENIED.

3rd Dist. Jayne Williams, Respondent  
C024268 v.  
S063269 Misae Saunders, Appellant  
Respondent's petition for review DENIED.

3rd Dist. People, Respondent  
C024366 v.  
S063104 Issach Jerome Ready, Appellant  
Appellant's petition for review DENIED.

3rd Dist. In re April W., a Person Coming Under the Juvenile Court Law  
C026267 -----  
S063282 Department of Social Services, Respondent  
v.  
Karen and Randy W., Appellant  
Petition for review DENIED.

4th Dist. William O. Vomaska et al., Appellants  
D020688 v.  
Div. 1 City of San Diego, Respondent  
S063003 Appellants' petition for review DENIED.

4th Dist. Medmetric Corporation, Appellant  
D022660 v.  
Div. 1 Orthopedic Systems Incorporated, Respondent  
S063508 Petition for review DENIED.

4th Dist. People, Respondent  
D024396 v.  
Div. 1 John Richard Contreras, Appellant  
S062689 Appellant's petition for review DENIED.  
Mosk, J., and Kennard, J., are of the opinion the petition should  
be granted.

4th Dist. People, Respondent  
D025197 v.  
Div. 1 Michael Anthony Abeyta, Appellant  
S063241 Appellant's petition for review DENIED.

4th Dist. Redevelopment Agency of the City of San Marcos, Appellant  
D026195 v.  
Div. 1 California Commission on State Mandates, Respondent  
S062729 California Department of Finance, Respondent  
Appellant's petition for review DENIED.

4th Dist. In re John S. et al., Minors  
D028225 -----  
Div. 1 San Diego Department of Social Services  
S063273 v.  
Janice S., Appellant  
Petition for review DENIED.

4th Dist. In re David Scott Harrison  
D028883 on  
Div. 1 Habeas Corpus  
S063120 Petition for review DENIED.



4th Dist. People, Respondent  
E015561 v.  
Div. 2 Lisa Kay Mustard, Appellant  
S062482 Appellant's petition for review DENIED.

4th Dist. People, Respondent  
E016578 v.  
E020323 Alan Richard Myers, Appellant  
Div. 2 -----  
S062347 In re Alan Richard Myers on Habeas Corpus  
Appellant's petition for review DENIED.

4th Dist. People, Respondent  
E017299 v.  
Div. 2 Ponciano Ochoa Romero, Appellant  
S062503 Appellant's petition for review DENIED.  
Kennard, J., and Chin, J., are of the opinion the petition should  
be granted.

4th Dist. People, Respondent  
E017365 v.  
Div. 2 Jeronimo Corral Andrade, Appellant  
S063096 Appellant's petition for review DENIED without prejudice to  
filing a petition for writ of habeas corpus in the sentencing court.  
(*People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 530,  
fn. 13.)

4th Dist. People, Respondent  
E017413 v.  
Div. 2 Angelo Carretero, Appellant  
S062254 Appellant's petition for review DENIED.

4th Dist. People, Respondent  
E018035 v.  
Div. 2 Rodger Dale Welch, Appellant  
S062273 Appellant's petition for review DENIED.

4th Dist. People, Respondent  
E018365 v.  
Div. 2 Geoffrey Winston Price, Appellant  
S062834 Appellant's petition for review DENIED.

4th Dist. Jason Shamarka Williams, Petitioner  
E020667 v.  
Div. 2 Riverside County Superior Court, Respondent  
S062617 People, Real Party in Interest  
Petition for review DENIED.

4th Dist. C. W. Driver et al., Respondents  
G015658 v.  
G016940 Joseph P. Mayer III et al., Appellants  
G017351 Petition for review DENIED.  
Div. 3  
S063144

4th Dist. Thomas J. O'Keefe et al., Respondents  
G015888 v.  
Div. 3 Capistrano/Fortune Partners et al., Appellants  
S063000 Appellants' petitions for review DENIED.

4th Dist. Douglas R. Wiser et al., Appellants  
G016470 v.  
Div. 3 City of Brea et al., Respondents  
S063291 Appellants' petition for review DENIED.

4th Dist. People, Respondent  
G018527 v.  
Div. 3 Steven Douglas Mattson, Appellant  
S062300 Appellant's petition for review DENIED.

4th Dist. People, Respondent  
G019039 v.  
Div. 3 Hector Rosas Solano, Appellant  
S063069 Appellant's petition for review DENIED.

4th Dist. John C. Zahn et al., Appellants  
G020117 v.  
Div. 3 Western Financial Savings Bank, Respondent  
S062966 And Companion Case  
Petition for review DENIED.

4th Dist. Cox Communications et al., Petitioners  
G021685 v.  
Div. 3 Workers' Compensation Appeals Board et al., Respondents  
S063133 Petition for review DENIED.

4th Dist. San Joaquin Hills Transportation Corridor Agency, Petitioner  
G021840 v.  
Div. 3 Orange County Superior Court, Respondent  
S062921 Robert K. Ameet, Real Party in Interest  
Petition for review DENIED.

4th Dist. Foothill/Eastern Transportation Corridor Agency, Petitioner  
G021841 v.  
Div. 3 Orange County Superior Court, Respondent  
S062920 Robert K. Ameet, Real Party in Interest  
Petition for review DENIED.

4th Dist. David R. Flyer, Petitioner  
G022104 v.  
Div. 3 Orange County Superior Court, Respondent  
S063964 Southridge Homes, Real Party in Interest  
Petition for review DENIED.  
The stay order issued on August 28, 1997, is hereby terminated.

5th Dist. People, Respondent  
F024336 v.  
S062524 John Gayton, Appellant  
Appellant's petition for review DENIED.

5th Dist. People, Respondent  
F024654 v.  
S062353 Melvin Jones, Appellant  
Appellant's petition for review DENIED.

5th Dist. People, Respondent  
F025249 v.  
S063125 Miguel Rios Rubio, Appellant  
Appellant's petition for review DENIED.

5th Dist. People, Respondent  
F025345 v.  
S063230 Tarrell Amos, Appellant  
Appellant's petition for review DENIED.

5th Dist. People, Respondent  
F026531 v.  
S063147 Robert Valdez, Appellant  
Appellant's petition for review DENIED.

5th Dist. People, Respondent  
F026348 v.  
S063154 Bryan Keith Cagle, Appellant  
Appellant's petition for review DENIED.

5th Dist. People, Respondent  
F026386 v.  
S063256 Gerrardo Morin, Appellant  
Appellant's petition for review DENIED without prejudice to  
filing a petition for writ of habeas corpus in the sentencing court.  
(*People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 530,  
fn. 13.)

6th Dist. In re Miguel O., a Person Coming Under the Juvenile Court Law  
H016188 -----  
S063245 Department of Family & Children's Services, Respondent  
v.  
Fidela M., Appellant  
Petition for review DENIED.

6th Dist. County of Monterey et al., Petitioners  
H016776 v.  
S063107 Workers' Compensation Appeals Board et al., Respondents  
Petition for review DENIED.

6th Dist. Raymond Brooks, Petitioner  
H017092 v.  
S062999 Santa Clara County Superior Court, Respondent  
City of San Jose et al., Real Parties in Interest  
Petition for review DENIED.

3rd Dist. Motorola Communication and Electronics, Inc., Appellant

C022630           v.  
S063276       Department of General Services, Respondent  
              The request for an order directing depublication of the opinion in  
              the above entitled cause is DENIED.

4th Dist.       Lorraine Weikel, Appellant  
D021219           v.  
Div. 1         T C W Realty Fund II Holding Company et al., Respondents  
S063025       The request for an order directing depublication of the opinion in  
              the above entitled cause is DENIED.

Orders were filed in the following matters extending the time within which to grant or deny a petition for review to and including the date indicated, or until review is either granted or denied:

A068400/S062719   People v. Leroy Emmanuel Lucas et al. - October 14, 1997.

A071022/S062666   People v. Abdullah Ibn Ali - October 6, 1997.

A071105/S062630   Michael John McGlothin - October 8, 1997.

A071419/S062895   People v. Joseph E. Glasper - October 15, 1997.

A071729/S062813   Kyle Richmond v. A. P. Green Industries, Incorporated et al.  
                    - October 10, 1997.

A072610/S062860   People v. Tyrone Miguel Allen - October 10, 1997.

A073066/S062489   Bank of America v. Felisa V. Lallana - October 10, 1997.

A074240/S062636   People v. Donald Leroy Stone; In re Donald Leroy Stone on  
                    Habeas Corpus - October 6, 1997.

A075473/S062598   People v. Alexiss Carlene Pratt - October 3, 1997.

A079029/S062927   David Lee Roy King v. Sonoma County Superior Court;  
                    People, RPI - October 16, 1997.

- B092814/S062822 In re Terrell Shaun Wise et al. on Habeas Corpus; People v. Terrell Shaun Wise et al. - October 14, 1997.
- B096961/S062639 People v. Rigoberto Gandara et al. - October 6, 1997.
- B098707/S062610 People v. Frank James Showell - October 3, 1997.
- B099683/S062737 People v. Jose A. Vasquez - October 6, 1997.
- B099781/S062760 People v. Howard Davis, Jr. - October 9, 1997.
- B100781/S062824 People v. Lawrence Williams - October 10, 1997.
- B100812/S062814 People v. Mark Anthony Steward - October 10, 1997.
- B101040/S062732 People v. Travis Hawkins - October 8, 1997.
- B101134/S062612 People v. Selvin Ortiz-Orellana - October 3, 1997.
- B101946/S062739 People v. Kenneth D. Davis - October 7, 1997.
- B104393/S062810 People v. Paul A. Thomas - October 10, 1997.
- B104482/S062695 People v. Sterling Thibodeaux - October 7, 1997.
- B104914/S062815 People v. Edward Clay - October 10, 1997.
- B108892/S062670 People v. Los Angeles County Superior Court; Melvin Ray J. RPI - October 6, 1997.
- B112358/S062836 Dino Ferrari v. Los Angeles County Superior Court; People, RPI - October 10, 1997.
- C020044/S062605 People v. Somsak Uppasay et al. - October 7, 1997.
- C021564/S062783 People v. Jasper Wilford Alford - October 10, 1997.
- C021579/S062847 People v. Norman Christopher Ellis - October 14, 1997.
- C022199/S062875 People v. Christina Murillo - October 10, 1997.

- C023565/S062758 People v. Ronald Aubrey Crooks - October 9, 1997.
- D021430/S062769 James B. McInnis, Sr., as Trustee, etc. v. Glendale Federal Bank - October 10, 1997.
- D024119/S062601 People v. John Michael Lewis - October 3, 1997.
- D024189/S062951 People v. Marie Bandrup - October 16, 1997.
- D025362/S062774 People v. Grayden N. - October 9, 1997.
- D025912/S062970 People v. Troy Dennis Magarrell - October 16, 1997.
- D028436/S062869 Judith H. Dwyer v. Luis E. Garcia, Incorporated - October 15, 1997.
- E017180/S062885 People v. Ray Dino Davis; In re Ray Dino Davis on Habeas Corpus - October 14, 1997.
- E018133/S062727 People v. Anthony Perez - October 9, 1997.
- E020715/S062673 Dane Allen Day v. Riverside County Superior Court; People, RPI - October 6, 1997.
- G017412/S062472 People v. John Richard Martinez et al.; In re John Richard Martinez on Habeas Corpus and Companion Case - October 7, 1997.
- F024431/S062819 People v. Denise Lee Rosen - October 10, 1997.
- F024766/S062671 People v. Clarence A. Ramirez, Jr. - October 6, 1997.
- H013974/S062876 People v. Jorge Jimenez Vargas - October 14, 1997.
- H014658/S062631 People v. Gilbert Gonzalez Villalovos - October 6, 1997.
- H015029/S062908 People v. Demetre Antaun Hopkins - October 16, 1997.
- H015403/S062648 People v. Martin Soto - October 3, 1997.

H016130/S062925 In re Hugo F., a Person Coming Under the Juvenile Court Law; People v. Hugo F. - October 16, 1997.

H017050/S062880 Joseph Ryan Hayes v. Santa Clara County Superior Court, People, RPI - October 15, 1997.

S004725 People, Respondent  
Crim. v.

25694 Royal Kenneth Hayes, Appellant

On application of respondent and good cause appearing, it is ordered that the time to serve and file respondent's brief extended to and including November 3, 1997.

S016719 People, Respondent  
v.

Ralph Michael Yeoman, Appellant

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to and including September 29, 1997.

S020803 People, Respondent  
v.

Richard Bert Stewart, Appellant

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to and including November 3, 1997.

S024116 People, Respondent  
v.

Michael Slaughter, Appellant

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to and including October 28, 1997.

S057078 In re John Lee Holt  
on

Habeas Corpus

On application of petitioner and good cause appearing, it is ordered that the time to serve and file petitioner's reply to informal



response to the petition for writ of habeas corpus is extended to and including September 22, 1997.

No further extensions of time are contemplated.

S059712      In re Michael Ray Hanline  
                 on  
                 Habeas Corpus

On application of respondent and good cause appearing, it is ordered that the time to serve and file respondent's informal response to the petition for writ of habeas corpus is extended to and including October 3, 1997.

S059885      In re Lee Max Barnett  
                 on  
                 Habeas Corpus

On application of respondent and good cause appearing, it is ordered that the time to serve and file respondent's informal response to the petition for writ of habeas corpus is extended to and including September 29, 1997.

S061629      In re Rufino H. Valle  
                 on  
                 Habeas Corpus

On application of respondent and good cause appearing, it is ordered that the time to serve and file respondent's informal response to the petition for writ of habeas corpus is extended to and including October 2, 1997.

S061945      Louis E. Potvin, M.D., Appellant  
                 v.

Metropolitan Life Insurance Company, Respondent

On application of respondent and good cause appearing, it is ordered that the time to serve and file respondent's opening brief on the merits is extended to and including October 28, 1997.

S057191      People, Respondent  
                 v.

Lawrence Birks, Appellant

The application of California Public Defenders' Association for permission to file an amicus curiae brief in support of appellant is

hereby granted.

An answer thereto may be served and filed by any party on or before September 22, 1997.

S058051 In re Teofilo Medina, Jr.

on

Habeas Corpus

The motion to recall the remittitur and reinstate the direct appeal, filed July 16, 1997, is denied.

S061917 People, Respondent

v.

Robert Hugh Cole, Appellant

Upon request of appellant for appointment of counsel, Ruth Spear is hereby appointed to represent appellant on his appeal now pending in this court.

S063870 Agricultural Insurance Company, Petitioner

v.

Los Angeles County Superior Court, Respondent

MKDG/Rhodes SC Partnership et al., Real Parties in Interest

The above entitled matter is transferred to the Court of Appeal, Second Appellate District.

Bar In the Matter of the Application of the Committee of Bar Examiners  
Misc. of the State of California for Admission of Attorneys

4186 The written motion of the Committee of Bar Examiners that the following named applicants, who have fulfilled the requirements for admission to practice law in the State of California, be admitted to the practice of law in this state is hereby granted, with permission to the applicants to take the oath before a competent officer at another time and place:

(LIST OF NAMES ATTACHED TO ORIGINAL ORDER)

S062228 In re **Joseph M. Alioto** on Discipline

It is ordered that **Joseph M. Alioto** be suspended from the practice of law for 90 days, that execution of suspension be stayed, and that he be placed on probation for one year on condition that he be actually suspended for 15 days. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Regarding Stipulation

filed May 8, 1997. Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and those costs are payable in accordance with section 6140.7 (as amended effective January 1, 1997).

S062275 In re **Bradford E. Henschel** on Discipline

It is ordered that **Bradford E. Henschel** be suspended from the practice of law for 18 months, that execution of suspension be stayed, and that he be placed on probation for three years subject to the conditions of probation, including restitution and 120 days actual suspension, recommended by the Hearing Department of the State Bar Court in its Order Regarding Stipulation filed March 4, 1997, as amended April 8, 1997. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955, California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.\* Costs are awarded to the State Bar pursuant to Business and Professions Code section 6068.10 and those costs are payable in accordance with section 6140.7 (as amended effective January 1, 1997).

\*(See Business & Professions Code, § 6126, subd. (c).)

S062383 In re **Richmond M. Flatland** on Discipline

It is ordered that **Richmond M. Flatland** be suspended from the practice of law for four years and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, that execution of said suspension be stayed, and that he be placed on probation for four years on conditions including his actual suspension for three years and until he makes restitution to Christopher M. Blackburn to in the amount of \$4,700, plus 10% per annum interest from May 24, 1995, to Ralph and Rosemary Arthur in the amount of \$1,467 plus 10% per annum interest from June 26, 1995, to Douglas and Donna Redgrave in the amount of \$2,000, plus 10% per annum interest from March 13, 1995, to Joseph Dennis in

the amount of \$325, plus 10% per annum interest from October 4, 1995, to Arthur Sandoval in the amount of \$180, plus 10% per annum interest from June 1, 1995, and to Erman Theodore in the amount of \$10,202.53, plus 10% per annum interest from May 22, 1995, or to the Client Security Fund, if appropriate, and furnishes satisfactory proof thereof to the State Bar Probation Unit, and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), and until his inactive enrollment in connection with State Bar Court case no. 96-TR-04334 terminates. Credit against the period of actual suspension shall be given for the period of inactive enrollment which commenced April 22, 1996. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Regarding Stipulation filed April 18, 1997. It is further ordered that he take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners, and provide the State Bar Probation Unit with satisfactory proof of his passage of said examination, within two years after the effective date of this order. Costs payable in accordance with section Business and Professions Code 6140.7 are awarded to the State Bar pursuant to Business and Professions Code section 6086.10.

S062399      In re **Alysa B. Rosen** on Discipline

It is ordered that **Alysa B. Rosen** be suspended from the practice of law for 90 days, that execution of suspension be stayed, and that she be placed on probation for one year subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its Further Order Regarding Stipulation filed May 15, 1997. It is further ordered that she take and pass the Multistate Professional Responsibility Examination, and provide the State Bar Probation Unit with satisfactory proof of her passage of said examination, within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business and Professions Code section 6086.10 and are payable in accordance with section 6140.7 (as amended effective January 1, 1997).

S062400 In re **James David Wagner** on Discipline

It is ordered that **James David Wagner** be suspended from the practice of law for three years and until he makes restitution to Mary Kendall in the amount of \$600, plus 10% interest per annum from December 20, 1993, and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, that execution of suspension be stayed, and that he be placed on probation for three years on condition that he be actually suspended for one year and until he makes restitution as directed above and furnishes satisfactory proof thereof to the Probation Unit, State Bar Office of Trials. Should the period of actual suspension exceed two years, he shall remain suspended until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. He is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its decision filed March 13, 1997. It is further ordered that he take and pass the Multistate Professional Responsibility Examination during his period of actual suspension or within one year after the effective date of this order, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) He is further ordered to comply with rule 955, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.\* Costs are awarded to the State Bar pursuant to Bus. & Prof. Code section 6140.7 (as amended effective January 1, 1997).

\*(See Business & Professions Code, § 6126, subd. (c).)

S062403 In re **Thomas Edward Kent** on Discipline

It is ordered that **Thomas Edward Kent** be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for three years on condition that he be actually suspended for thirty days. He is also ordered to comply with the other conditions of probation, including restitution, recommended by the Hearing Department of the State Bar Court in its order regarding stipulation filed April 9, 1997. It is further ordered that he take and pass the Multistate Professional

Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Bus. & Prof. Code section 6140.7 (as amended effective January 1, 1997).

S063867      In the Matter of the Resignation of **Howard Boring Clayton**  
A Member of the State Bar of California

The voluntary resignation of **Howard Boring Clayton** as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against him should he hereafter seek reinstatement. It is ordered that he comply with rule 955, California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 60 and 70 days, respectively, after the date this order is filed.\* Costs are awarded to the State Bar.

\*(See Business & Professions Code, § 6126, subd. (c).)

S063868      In the Matter of the Resignation of **Fe Daphne Olilang**  
A Member of the State Bar of California

The voluntary resignation of **Fe Daphne Olilang** as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against her should she hereafter seek reinstatement. It is ordered that she comply with rule 955, California Rules of Court, and that she perform the acts specified in subdivisions (a) and (c) of that rule within 60 and 70 days, respectively, after the date this order is filed.\* Costs are awarded to the State Bar.

\*(See Business & Professions Code, § 6126, subd. (c).)

1683-97

THE HONORABLE ROGER W. BOREN, Presiding Justice of the Court of Appeal, Second Appellate District, Division Two, is hereby assigned to assist the Supreme Court of California as a justice thereof on September 3, 1997, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Supreme Court justice, petitions for rehearing arising out of such causes and matters.

Dated: September 3, 1997

Ronald M. George  
Chief Justice of California and  
Chairperson of the Judicial Council

